

REMARKS

Claims 2-5, 8-9, 12 and 14-21 are currently pending in this application as amended. Claims 1, 6-7, 10-11 and 13 have been cancelled. Claims 2-5 have been amended to depend from independent claim 8 and to clarify their preambles. Claim 9 has been amended to clarify its preamble. Claims 8 and 12 have been amended to more particularly point out and distinctly claim the subject matter which the Applicants regard as their invention and to clarify their preambles. Claims 14-21 have been added to depend from independent claim 12. Support for the claim amendments can be found, for example, in the original specification at paragraphs [0022] – [0024], in the original claims and in Figs. 1 and 3-4. Accordingly, no new matter has been added.

Election/Restriction Requirement

The Examiner has indicated that there are three patentably distinct species of the claimed invention:

- Species S1 Claims 1-7 and 11;
- Species S2 Claims 8-9 and 12; and
- Species S3 Claims 10 and 13.

In accordance with 37 C.F.R. §§ 1.142-1.143, Applicants hereby confirm their oral election and formally elect Species S2, without traverse, i.e., claims 8-9 and 12 directed to a wireless amusement communication system, as previously agreed to by telephone with the Examiner.

However, Applicants also hereby reserve the right to pursue Species S1 and Species S3 and the subject matter associated therewith in a divisional and/or continuation application(s), without prejudice.

Claim Rejections Under 35 U.S.C. § 112

Claims 8-9 and 12 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner indicates that the preambles are vague and indefinite because it is not clear if the claims are directed to a device or a system. Further, the Examiner indicates that it is unclear where a “wireless broadcast signal” was introduced. The Examiner further indicates that

the limitation “a third wireless adapter coupled between the third amusement device and the local power grid” was not disclosed.

Claims 8-9 and 12 have been amended to be directed to an amusement system. Claims 8-9 and 12 have also been amended to introduce a wireless broadcast signal as being part of the communication medium. Claim 12 has been further amended to delete “and the power grid” which was an obvious typographical error.

In view of the foregoing amendments, the rejection under 35 U.S.C. § 112, second paragraph, has been overcome and should be withdrawn.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 8-9 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0019984 A1 (“Rakib”).

Withdrawal of the rejection of claims 8-9 is respectfully requested in view of the foregoing amendments and for at least the following reasons.

Claim 8

Claim 8, as amended, recites, *inter alia*:

(a) a communication link having a communication medium and a wireless sub-system, the communication medium including a wireless broadcast signal;

(b) a first amusement device having a video touchscreen, a controller and a memory, the memory of the first amusement device storing a plurality of video games playable on the first amusement device using at least the video touchscreen; and

[underline emphasis added]

Rakib fails to disclose or suggest an amusement system having a first amusement device with a video touchscreen, a controller and a memory wherein the memory of the first amusement device stores a plurality of video games playable on the first amusement device using at least the video touchscreen and a second amusement device having a controller and a memory wirelessly coupled to the first amusement device by a communication link, as claimed in claim 8, as amended.

Rakib discloses a personal digital assistant (“PDA”) used as a complex remote control for accessing a home headend cherry picker that controls appliances, televisions, digital video recorders, digital video security cameras and accesses telephone, music file servers and the internet. While the PDA remote control includes a memory, a controller and a wireless transmitter, the PDA remote control does not disclose a memory storing a plurality of video games playable on the remote control using at least the video touchscreen.

In the present invention, as set forth in claim 8, one or more amusement devices such as an existing touch screen video game type machine (see e.g., ¶ [0023] at lines 19-23) which allows a user to access a second amusement device that stores music and/or video files and/or game files (see ¶ [0025]). The types of amusement devices such as game machines, disclosed are video game touchscreen consoles having a plurality of games like those described in paragraphs [0004]-[0005], which would be the first amusement device. The second amusement device would be a digital multimedia “jukebox” as suggested at paragraph [0023].

A claim is anticipated under 35 U.S.C. § 102 only if each and every element as set forth in the claim is found expressly or inherently described in a single prior art reference and the elements must be arranged as required in the claim. M.P.E.P. § 2131.

Independent claim 8 has been amended to include that the first amusement device has a video touchscreen, a controller and a memory wherein the memory of the first amusement device stores a plurality of video games playable on the first amusement device using at least the video touchscreen. The first amusement device interpreted by the Examiner in Rakib is a remote control 30, 70 having a video touchscreen, which is described as a PDA remote control for use with a multimedia system and appliances. As described, the remote control acts more as a remote terminal or dumb terminal that accesses the appliances and file servers to obtain streaming video, web information, or games. But the PDA remote control does not include a plurality of games stored in its own memory playable by the user using the video touchscreen.

It is therefore respectfully submitted that claim 8 is not anticipated by Rakib because Rakib does not disclose or suggest each and every element of claim 8. Claims 2-5 and 9 depend from independent claim 8. Accordingly, Applicants respectfully request that the rejection of claims 8 and 2-5 and 9 under 35 U.S.C. § 102(b) be withdrawn.

Claims 19-20 have been added to depend from independent claim 8, and therefore, claims 19-20 are also not anticipated under 35 U.S.C. § 102(b) in view of Rakib for all the reasons mentioned above with respect to claim 8.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 12 has been rejected as being unpatentable under 35 U.S.C. § 103(a) over Rakib.

Withdrawal of the rejection of claim 12 is respectfully requested in view of the foregoing amendments and for at least the following reasons.

Claim 12

Claim 12, as amended, recites, *inter alia*:

(a) a communication link having a communication medium and a wireless communication subsystem, the communication medium including a wireless broadcast signal;

(b) first and third amusement devices, each having a video touchscreen a controller and a memory, each of the respective memories of the first and third amusement devices storing a plurality of video games playable on the respective first and third amusement devices using at least the respective video touchscreen; and

(c) a second amusement device having an audio output, a controller and a memory configured to store and retrieve music files, the second amusement device being coupled to the first and third amusement devices by the communication link, the first and third amusement devices communicating with the second amusement device using the communication medium, the video touchscreen of the first and third amusement devices each being configured to access the controller of the second amusement device to cause the controller to retrieve one of the music files and output the retrieved music file to the audio output of the second amusement device,

[underline emphasis added]

For reasons similar to those mentioned above with respect to claim 8, Rakib fails to disclose, teach or suggest first and third amusement devices each having a video touchscreen, a controller and a memory wherein each of the respective memories of the first and third amusement devices store a plurality of video games playable on the respective first and third

amusement devices using at least the respective video touchscreen and a second amusement device having an audio output, a controller and a memory configured to store and retrieve music files where the second amusement device is accessible by each of the first and third amusement devices by a wireless communication link to cause the controller of the second amusement device to retrieve one of the music files and output the retrieved music file to an audio output of the second amusement device.

The PDA remote control of Rakib fails to disclose that its memory stores a plurality of video games playable on that PDA remote control using at least the video touchscreen of the remote control. The PDA remote control of Rakib merely accesses appliances and file servers in order to stream video or play music or play games from the remote file server.

To establish *prima facie* obviousness of a claimed invention, all the claims' limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03.

Applicants respectfully submit that claim 12 is not *prima facie* obvious under 35 U.S.C. § 103(a) in view of Rakib even as modified as suggested by the Examiner. Rakib fails to disclose, teach or suggest that the first and third amusement devices each store a plurality of video games playable on the first and third amusement devices using their respective video touchscreens and that the first and third amusement devices can also wirelessly access the second amusement device to cause the second amusement device to retrieve a music file and output that music file to an audio output of the second amusement device. Accordingly, Applicants respectfully submit that claim 12 is not obvious under 35 U.S.C. § 103(a) in view of Rakib. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) of claim 12 be withdrawn.

Claims 14-18 have been added to depend from independent claim 12, and therefore, claims 14-18 are also not obvious under 35 U.S.C. § 103(a) in view of Rakib for all the reasons mentioned above with respect to claim 12.

New Independent Claim 21

New independent claim 21 is a variation of the wireless amusement system embodiment elected in Species S2. Support for the new independent claim can be found in original claims 8 and 12, in the original specification at paragraphs [0022]-[0024] and in Figs. 1 and 3-4, among other places. New independent claim 21 is patentable in view of Rakib for reasons similar to those set forth above with respect to claims 8 and 12.

CONCLUSION

In view of the foregoing Amendment and Remarks, it is respectfully submitted that the present application, including claims 2-5, 8-9, 12 and 14-21, is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

James R. Stelzer, et al.

January 19, 2006
(Date)

By:


JOHN D. SIMMONS

Registration No. 52,225

AKIN GUMP STRAUSS HAUER & FELD LLP

One Commerce Square

2005 Market Street, Suite 2200

Philadelphia, PA 19103-7013

Telephone: 215-965-1200

Direct Dial: 215-965-1268

Facsimile: 215-965-1210

E-Mail: jsimmons@akingump.com

JDS:cmb
7532688